

OFFICES NEW YORK NEW JERSEY CONNECTICUT

May 5, 2022


BY E-MAIL AND ECF

Honorable John P. Cronan
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 1320
New York, New York 10007

In accordance with 4.B.ii of the Court's Individual Rules and Practices in Civil Cases, by May 9, 2022, Plaintiff shall file a letter explaining the need to file the Exhibits listed in Section I, below, under seal or in redacted form.

So ORDERED.

Date: May 6, 2022
New York, New York



JOHN P. CRONAN
United States District Judge

Re: **Better Holdco, Inc. v. Beeline Loans, Inc., No. 1:20-cv-08686 (JPC) (SN)**

Dear Judge Cronan:

This firm represents Defendant Beeline Loans, Inc. ("Beeline") in the above-captioned matter. Pursuant to Rule 4.B.ii of Your Honor's Individual Rules and Practices in Civil Cases ("Rules"), Beeline respectfully requests leave to file certain documents under seal in connection with its (1) Motion for Summary Judgment and (2) Motion to Exclude Plaintiff's Expert, Stephen Holzen.

I. Documents Designated Confidential by Plaintiff

"The common law right of public access to judicial documents is firmly rooted in our nation's history." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). To be designated a "judicial document," "the item filed must be relevant to the performance of the judicial function and useful in the judicial process." *Id.* The court must balance competing considerations against the common law presumption of access. *Id.* at 120. One such consideration is the privacy interests of those resisting disclosure. *Id.*

Beeline seeks to leave to file under seal certain documents that Plaintiff Better Holdco, Inc. ("Plaintiff") has designated as Confidential Discovery Material under the Amended Protective Order (*see* Dkt. No. 101).

1. Exhibit B to the Modica Declaration in support of Beeline's Motion for Summary Judgment is Plaintiff's Proprietary Information and Invention Agreement. Plaintiff has previously designated this document as Confidential Discovery Material under the Amended Protective Order.
2. Exhibit F to the Modica Declaration in support of Beeline's Motion for Summary Judgment is the affidavit of non-party Jack Abramowitz, which has previously been designated by Plaintiff as Attorney's Eyes Only.

COFFEY MODICA O'MEARA CAPOWSKI

Hon. John P. Cronan

May 5, 2022

Page 2

3. Exhibit H to the Modica Declaration in support of Beeline's Motion for Summary Judgment is the August 26, 2020 correspondence from Wilson Sonsini Goodrich & Rosati on behalf of Plaintiff to Beeline. This document has previously been designated as Confidential Discovery Material under the Amended Protective Order.
4. Exhibit I to the Modica Declaration in support of Beeline's Motion for Summary Judgment is the August 28, 2020 correspondence from Wilson Sonsini Goodrich & Rosati on behalf of Plaintiff to Beeline. This document has previously been designated as Confidential Discovery Material under the Amended Protective Order.
5. Exhibit P to the Modica Declaration in support of Beeline's Motion for Summary Judgment is the confidential settlement agreement between non-party Jack Abramowitz and Plaintiff. Plaintiff has previously designated this document as Confidential Discovery Material under the Amended Protective Order.
6. Exhibit W to the Modica Declaration in support of Beeline's Motion for Summary Judgment (Exhibit C to the Modica Declaration in support of Beeline's Motion to Exclude Plaintiff's Expert, Stephen Holzen) is the expert report of Plaintiff's proposed expert, Stephen Holzen. Plaintiff has previously designated this document as Outside Counsel Only.

Beeline takes no position regarding the need for sealing the above-listed documents and reserves the right to challenge Plaintiff's designations of them as Confidential Discovery Material.

Beeline further seeks leave to file in redacted form the following exhibits to its Motion for Summary Judgment and Motion to Exclude Plaintiff's Expert, Stephen Holzen:

1. Exhibit X to the Modica Declaration in support of Beeline's Motion for Summary Judgment is the expert report of Beeline's expert, Joe Garrett. Plaintiff has previously designated pages 6-7 of this document as Attorney's Eyes Only.
2. Exhibit Y to the Modica Declaration in support of Beeline's Motion for Summary Judgment (Exhibit E to the Modica Declaration in support of Beeline's Motion to Exclude Plaintiff's Expert, Stephen Holzen) is the expert report of Beeline's expert, Karl Weisheit. Plaintiff has previously designated pages 29-30 and 45-46 as Attorney's Eyes Only and pages 24-25 and 50, as well as Schedules 3, 3.1, 5, 7, and 8, as Outside Counsel Only.

We are available at the Court's convenience to discuss this application.

Respectfully submitted,



Robert Modica, Esq.

Cc: All counsel of record (by ECF)

COFFEY MODICA O'MEARA CAPOWSKI